

Introduced by Senator Runner

February 23, 2006

An act to amend Sections 17072, 17215, and 19184 of, and to add Sections 17138.5, 17138.6, and 17216 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1584, as introduced, Runner. Income Tax: health savings account.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would allow a deduction in connection with health savings accounts in conformity with recently enacted federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by or on behalf of an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would also provide related conformity to that federal law with respect to treatment of the account as a tax-exempt trust, the allowance of rollovers from Archer medical savings accounts to a health savings account, and penalties in connection therewith.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17072 of the Revenue and Taxation
- 2 Code is amended to read:

1 17072. (a) Section 62 of the Internal Revenue Code, relating
2 to adjusted gross income defined, shall apply, except as
3 otherwise provided.

4 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
5 to certain expenses of elementary and secondary school teachers,
6 shall not apply.

7 (c) *The deduction allowed by Section 17216, relating to health*
8 *savings accounts, is allowed in computing adjusted gross*
9 *income.*

10 (d) *The amendments made to this section by the act adding*
11 *this subdivision shall apply only to each taxable year beginning*
12 *on or after January 1, 2006.*

13 SEC. 2. Section 17138.5 is added to the Revenue and
14 Taxation Code, to read:

15 17138.5. For each taxable year beginning on or after January
16 1, 2006, Section 106 of the Internal Revenue Code, as amended
17 by Section 1201 of the Medicare Prescription Drug,
18 Improvement, and Modernization Act of 2003 (Public Law
19 108-173), relating to health savings accounts, shall apply, except
20 as otherwise provided.

21 SEC. 3. Section 17138.6 is added to the Revenue and
22 Taxation Code, to read:

23 17138.6. For each taxable year beginning on or after January
24 1, 2006, Section 125 of the Internal Revenue Code, as amended
25 by Section 1201 of the Medicare Prescription Drug,
26 Improvement, and Modernization Act of 2003 (Public Law
27 108-173), relating to health savings accounts, shall apply, except
28 as otherwise provided.

29 SEC. 4. Section 17215 of the Revenue and Taxation Code is
30 amended to read:

31 17215. (a) Section 220(a) of the Internal Revenue Code,
32 relating to deduction allowed, is modified to provide that the
33 amount allowed as a deduction shall be an amount equal to the
34 amount allowed to that individual as a deduction under Section
35 220 of the Internal Revenue Code, relating to medical savings
36 accounts, on the federal income tax return filed for the same
37 taxable year by that individual.

38 (b) Section 220(f)(4) of the Internal Revenue Code, relating to
39 additional tax on distributions not used for qualified medical

1 expenses, is modified by substituting “10 percent” in lieu of “15
2 percent.”

3 *(c) Section 220(f)(5) of the Internal Revenue Code, as*
4 *amended by Section 1201(c) of the Medicare Prescription Drug,*
5 *Improvement, and Modernization Act of 2003 (Public Law*
6 *108-173), relating to rollovers from Archer MSAs, shall apply,*
7 *except as otherwise provided.*

8 *(d) The amendments made to this section by the act adding*
9 *this subdivision shall apply only to each taxable year beginning*
10 *on or after January 1, 2006.*

11 SEC. 5. Section 17216 is added to the Revenue and Taxation
12 Code, to read:

13 17216. For each taxable year beginning on or after January 1,
14 2006, Section 223 of the Internal Revenue Code, as added by
15 Section 1201 of the Medicare Prescription Drug, Improvement,
16 and Modernization Act of 2003 (Public Law 108-173), relating to
17 health savings accounts, shall apply, except as otherwise
18 provided.

19 SEC. 6. Section 19184 of the Revenue and Taxation Code is
20 amended to read:

21 19184. (a) A penalty of fifty dollars (\$50) shall be imposed
22 for each failure, unless it is shown that the failure is due to
23 reasonable cause, by any person required to file who fails to file
24 a report at the time and in the manner required by any of the
25 following provisions:

26 (1) Subdivision (c) of Section 17507, relating to individual
27 retirement accounts.

28 (2) Section 220(h) of the Internal Revenue Code, relating to
29 medical savings accounts for taxable years beginning on or after
30 January 1, 1997.

31 (3) *Section 223(h) of the Internal Revenue Code, as added by*
32 *Section 1201 of the Medicare Prescription Drug, Improvement,*
33 *and Modernization Act of 2003 (Public Law 108-173), relating to*
34 *health savings accounts.*

35 (4) Subdivision (b) of Section 17140.3 or subdivision (b) of
36 Section 23711 relating to qualified tuition programs.

37 ~~(4)~~

38 (5) Subdivision (e) of Section 23712, relating to Coverdell
39 education savings accounts.

40 (b) (1) Any individual who:

1 (A) Is required to furnish information under Section 17508 as
2 to the amount designated nondeductible contributions made for
3 any taxable year, and

4 (B) Overstates the amount of those contributions made for that
5 taxable year, shall pay a penalty of one hundred dollars (\$100)
6 for each overstatement unless it is shown that the overstatement
7 is due to reasonable cause.

8 (2) Any individual who fails to file a form required to be filed
9 by the Franchise Tax Board under Section 17508 shall pay a
10 penalty of fifty dollars (\$50) for each failure unless it is shown
11 that the failure is due to reasonable cause.

12 (c) Article 3 (commencing with Section 19031) of this chapter
13 (relating to deficiency assessments) shall not apply in respect of
14 the assessment or collection of any penalty imposed under this
15 section.

16 (d) *The amendments made to this section by the act adding*
17 *this subdivision shall apply only to each taxable year beginning*
18 *on or after January 1, 2006.*

19 SEC. 7. This act provides for a tax levy within the meaning of
20 Article IV of the Constitution and shall go into immediate effect.